

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARCO MIGUEL ROBERTSON,

Plaintiff,

v.

CHARLES SAMUELS, *et al.*,

Defendants.

CIVIL ACTION NO. 3:13-CV-2500

(JUDGE CAPUTO)

(MAGISTRATE JUDGE CARLSON)

MEMORANDUM

Presently before the Court is Magistrate Judge Carlson's Report and Recommendation (Doc. 19) recommending that Defendants Samuels and Thomas be dismissed from the action without prejudice, Plaintiff's motion for protective order (Doc. 13) be denied without prejudice, and that the Complaint be served on the sole remaining defendant, Dr. Pigos. Plaintiff filed what is styled as an objection (Doc. 20) on January 14, 2014. For the reasons below, the Report and Recommendation will be adopted.

BACKGROUND

Plaintiff filed his Complaint in this case on October 3, 2013 (Doc. 1). On November 7, 2013, the Court adopted Magistrate Judge Carlson's initial Report and Recommendation (Doc. 6) dismissing Plaintiff's claims against Defendants Samuels and Thomas without prejudice and allowing Plaintiff twenty (20) days to file an amended complaint. In response to the Court's November 7, 2013 order, Plaintiff filed a "Motion For A Protective/Restraining Order Against USP Lewisburg" (Doc. 13). In this filing Plaintiff requested that the Court find in his favor on the merits of his Complaint, order his transfer to another prison, and order that he receive specific medical care. On January 6, 2014 Magistrate Judge Carlson filed the present Report and Recommendation (Doc. 19), and on January 14, 2014 Plaintiff filed his "Objection to Report and Recommendation By Magistrate Judge Carlson." (Doc. 20.) In his objection, Plaintiff recounts various allegations contained in his Complaint and motion for protective relief, as well other factual allegations not contained in these documents.

Although he does “echo” that “the dismissal of defendants Samuels and Thomas is totally unacceptable and unconstitutional,” he does not provide grounds for his objections to Magistrate Judge Carlson’s Report and Recommendation.

DISCUSSION

I. Legal Standard

Where objections to the Magistrate Judge's report are filed, the court must conduct a *de novo* review of the contested portions of the report. *Sample v. Diecks*, 885 F.2d 1099, 1106 n. 3 (3d Cir.1989) (citing 28 U.S.C. § 636(b)(1)(c)). However, this only applies to the extent that a party's objections are both timely and specific. *Goney v. Clark*, 749 F.2d 5, 6–7 (3d Cir.1984) (emphasis added). In conducting a *de novo review*, the court may accept, reject, or modify, in whole or in part, the factual findings or legal conclusions of the magistrate judge. See 28 U.S.C. § 636(b)(1); *Owens v. Beard*, 829 F. Supp. 736, 738 (M.D. Pa.1993). Although the review is *de novo*, the law permits the court to rely on the recommendations of the magistrate judge to the extent it deems proper. See *United States v. Raddatz*, 447 U.S. 667, 675–76, 100 S. Ct. 2406, 65 L. Ed. 2d 424 (1980); *Goney*, 749 F.2d at 7; *Ball v. United States Parole Comm'n*, 849 F.Supp. 328, 330 (M.D. Pa.1994). Uncontested portions of the report may be reviewed at a standard determined by the district court. See *Thomas v. Arn*, 474 U.S. 140, 154, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985); *Goney*, 749 F.2d at 7. At the very least, the court should review uncontested portions for clear error or manifest injustice. See, e.g., *Cruz v. Chater*, 990 F.Supp. 375, 376–77 (M.D. Pa.1998).

II. Analysis

Here, Plaintiff’s Objection does not respond to Magistrate Judge Carlson’s finding that Defendants Samuels and Thomas should be dismissed from the action or that Plaintiff’s request for a protective order should be denied. Thus, the Court reviews the Report and Recommendation as effectively uncontested. As the Court finds no clear error in Magistrate Judge Carlson’s analysis of the issues, the Court will adopt the Magistrate Judge’s Report and Recommendation.

CONCLUSION

For the reasons stated above, the Court will adopt Magistrate Judge Carlson's recommendation that Defendants Samuels and Thomas should be dismissed with prejudice, Plaintiff's motion for protective order (Doc. 13) should be denied without prejudice, and that the Complaint should be served on the sole remaining named Defendant, Dr. Pigos.

An appropriate order follows.

January 30, 2014
Date

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge